

# **EXHIBIT 1**

ORIGINAL

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

SPINIELLO COMPANIES,

Plaintiff, Civil Action

v.

Case No. 04-11933-NMG

BRICO INDUSTRIES, INC.,

Defendant.

VOLUME I

Pages 1-186

RULE 30(b)(6) DEPOSITION OF JOSE J. COLLAZO,  
a witness called by counsel for the Defendant,  
taken before Kimberly A. Smith, Certified Realtime  
Reporter, Registered Diplomate Reporter, and Notary  
Public in and for the Commonwealth of Massachusetts,  
at the Law Offices of Morrison Mahoney LLP,  
250 Summer Street, Boston, Massachusetts 02210-1181,  
on Tuesday, December 20, 2005, commencing at  
10:19 a.m.

1 A. I was with the estimators.

2 Q. What type of work did Northeast  
3 Construction perform?

4 A. Utility work, pipelines.

5 Q. What is your position currently with  
6 Spiniello?

7 A. I am one of the estimators.

8 Q. Do you have any particular title at  
9 Spiniello?

10 A. Not really.

11 Q. And what type of work does Spiniello do?

12 A. Spiniello engages in cleaning and cement  
13 mortar lining of water pipes and lining sewers,  
14 utility work, pipe rehabilitation.

15 Q. And how long have you been an estimator at  
16 Spiniello?

17 A. Twenty-six years.

18 Q. So during the 26 years, other than that  
19 seven months' lapse of time period in which you  
20 worked for Northeast Remsco Construction, you've held  
21 the same position?

22 A. Position varies. You could be project  
23 manager or you could be an estimator --

24 Q. Have you ever been --

1 Q. And you read this literature before --

2 A. I look at the literature before and I  
3 looked at the InnerSeal Type II.

4 Q. And the InnerSeal Type II was actually the  
5 type of seal that was used on this project; is that  
6 correct?

7 A. That's correct.

8 Q. And would you agree with me that there's  
9 nothing in the literature that says this would solve  
10 all your problems?

11 MS. UPTON: Objection.

12 THE WITNESS: I don't know.

13 BY MS. GARCIA:

14 Q. You understood that Brico was only going to  
15 be a supplier of seals for this project, correct?

16 A. Yes.

17 Q. And Spiniello provided all the measurements  
18 for the seals, correct?

19 A. Yes.

20 Q. When did Spiniello first send Brico  
21 measurements for the seals?

22 A. Bill Haines came to the job, asked the  
23 technician, or whatever you want to call him, to show  
24 how to do the measurements.

1 lining up to the joint?

2 A. Correct.

3 Q. And then you're going to clean that joint  
4 area again, correct?

5 A. Correct. You have to clean it twice.

6 Q. And who did the cleaning on this particular  
7 project?

8 A. Spiniello.

9 Q. Did Spiniello have a contract with ODF  
10 Contracting?

11 A. Yes.

12 Q. And what was the agreement between ODF and  
13 Spiniello?

14 A. They would install the seals.

15 Q. Were they only to install the seals?

16 A. Yes, and test it.

17 Q. Were they to --

18 A. And make it pass the test.

19 Q. Were they to supply the seals as well?

20 A. And supply the -- Yes. Supply the seals.  
21 Install -- Furnish and install and test the seals.

22 Q. And Spiniello informed both the MWRA and  
23 CDM that ODF would supply and install these seals;  
24 is that correct?

1 A. That's correct.

2 Q. And Spiniello informed both the MWRA and  
3 CDM that ODF was going to supply and install the  
4 seals for the entire project, correct?

5 A. Yes.

6 Q. Why did Spiniello hire ODF?

7 A. In order to comply with Massachusetts law,  
8 whatever the number is, you have to have some  
9 minority involvement.

10 Q. And how did Spiniello pay ODF for this  
11 particular job?

12 A. I don't understand the question.

13 Q. Did Spiniello pay ODF by the joint or by --  
14 or hourly?

15 A. Oh, no. By how many he install.

16 Q. Now, are you aware of how ODF paid their  
17 employees?

18 A. No.

19 Q. If ODF paid their employees hourly --

20 A. Yes.

21 Q. -- and Spiniello paid by the joint, do you  
22 see any problems in that?

23 MS. UPTON: Objection.

24 THE WITNESS: I mean, this is not a

1 Spiniello, Spiniello does not know; would that be  
2 correct?

3 A. Spiniello doesn't micromanage projects.

4 Q. Brico supplied seals to the job, correct?

5 A. Yes. Partially.

6 Q. And Brico supplied the seals that were  
7 ordered prior to any partial stop on the contract,  
8 correct?

9 A. Yes.

10 Q. And Brico had no obligation to install the  
11 seals, correct?

12 A. That's correct.

13 Q. And Brico had no obligation to test the  
14 seals, correct?

15 MS. UPTON: Objection.

16 THE WITNESS: That's correct.

17 BY MS. GARCIA:

18 Q. And there's no claim in this case that  
19 Brico did not supply seals with correct measurements,  
20 correct?

21 MS. UPTON: Objection.

22 THE WITNESS: I don't think so.

23 BY MS. GARCIA:

24 Q. So as far as you're aware, Brico supplied

1 seals that fit the measurements that Spiniello gave  
2 it?

3 A. I believe that's what it say in the Jason  
4 report.

5 Q. There's no documents that show that Brico  
6 guaranteed that its seals would meet the project  
7 specifications, correct?

8 MS. UPTON: Objection.

9 THE WITNESS: I don't recall.

10 BY MS. GARCIA:

11 Q. Have you ever seen a document that said  
12 that?

13 A. Guarantee?

14 Q. Yes.

15 A. The word "guarantee" is not there, but I'm  
16 aware that on the submittal, Brico said that it was  
17 used before and meet CDM and MWRA specifications.

18 Q. And they were, in fact, an approved  
19 supplier for these seals, correct?

20 A. For other project.

21 Q. The seals that were requested from Brico  
22 were specific seals, correct, meaning seals for the  
23 60-inch pipe with certain measurements and seals for  
24 the 48-inch pipe with certain measurements?



1 regarding paragraph 24 of Exhibit No. 10, that it was  
2 Brico who determined that the majority of seals  
3 failed due to manufacturing defects. When did Brico  
4 say this?

5 A. Brico say that this will not work in this  
6 situation.

7 Q. But in fact, would you agree with me that  
8 104 seals were, in fact, installed and were accepted  
9 by the MWRA on this project?

10 MS. UPTON: Objection.

11 THE WITNESS: That's correct.

12 BY MS. GARCIA:

13 Q. And those were the seals that were  
14 installed prior to Spiniello's transition to use  
15 Miller seals, correct?

16 MS. UPTON: Objection.

17 THE WITNESS: Could be. I don't recall.

18 BY MS. GARCIA:

19 Q. And would you be surprised that Brico  
20 stated that none of their seals had manufacturing  
21 defects?

22 MS. UPTON: Objection.

23 THE WITNESS: I'll be surprised.

24